

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 7-26-04.

The Medical Review Division has reviewed the enclosed IRO decision and determined that **the requestor prevailed** on the majority of the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on IRO review of the disputed issues within the request, the office visits, therapeutic exercises, mechanical traction, 11/19/03 through 1/26/04, as well as the office visit on 3/8/04 **were found** to be medically necessary. The hot/cold packs therapy on 11/21/03 and 12/5/03; and the manual therapy technique and therapeutic exercises rendered 3/8/04 **were not** found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On August 16, 2004, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

- **CPT code 99213** for dates of service 1/19/04 and 1/21/04 was denied by the carrier with N-not appropriately documented. For date of service 1/28/04, there was no denial code. In accordance with Rule 133.307 (g)(3)(A-F), the requestor submitted relevant information to support delivery of service on the above dates. **Reimbursement is recommended** in the amount of \$188.43.
- **CPT code 97140** for date of service 1/21/04 was denied by the carrier with N-not appropriately documented. For dates of service 1/19/04 and 1/28/04, there were no denial codes. In accordance with Rule 133.307 (g)(3)(A-F), the requestor submitted relevant information to support delivery of service on the above dates. **Reimbursement is recommended** in the amount of \$97.65

- **CPT code 97110** for date of service 1/21/04 was denied by the carrier with N-not appropriately documented. For dates of service 1/19/04 and 1/28/04, there were no denial codes. Recent review of disputes involving CPT Code 97110 by the Medical Dispute Resolution section as well as analysis from recent decisions of the State Office of Administrative Hearings indicate overall deficiencies in the adequacy of the documentation of this Code both with respect to the medical necessity of one-on-one therapy and documentation reflecting that these individual services were provided as billed. Moreover, the disputes indicate confusion regarding what constitutes "one-on-one." Therefore, consistent with the general obligation set forth in Section 413.016 of the Labor Code, the Medical Review Division has reviewed the matters in light all of the Commission requirements for proper documentation. The MDR declines to order payment because the SOAP notes do not clearly delineate exclusive one-on-one treatment nor did the requestor identify the severity of the injury to warrant exclusive one-to-one therapy. **Additional reimbursement not recommended.**

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with Medicare program reimbursement methodologies per Commission Rule 134.202 (b) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 11/19/03 through 3/08/04 as outlined above in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Decision and Order is hereby issued this 6th day of October 2004.

Regina L. Cleave
Medical Dispute Resolution Officer
Medical Review Division

Enclosure: IRO decision



Specialty Independent Review Organization, Inc.

Amended Decision

08/26/2004

David Martinez
TWCC Medical Dispute Resolution
7551 Metro Center Suite 100
Austin, TX 78744

Patient:
TWCC #:
MDR Tracking #: M5-04-4042-01
IRO #: 5284

Specialty IRO has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to Specialty IRO for independent review in accordance with TWCC Rule 133.308, which allows for medical dispute resolution by an IRO.

Specialty IRO has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

This case was reviewed by a licensed Chiropractor. The reviewer is on the TWCC ADL. The Specialty IRO health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to Specialty IRO for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

CLINICAL HISTORY

Based on the records received and reviewed, the injured employee ___ was injured in a work related accident on ___. ___ was working as a police officer for the City of Arlington when he was involved in a motor vehicle accident. The injured employee was initially seen by his primary care physician and then subsequently by Concentra on 9-22-03. ___ then changed treating doctors to Dr. Combs for treatment and initiated treatment with Dr. Combs on 10-9-2003 who remains the treating doctor for the purpose of this review.

The records include but are not limited to the following:

Records received from the carrier, Records received from the treating doctor, Summary statement from Dr. Combs, Daily office notes from Dr. Combs, Evaluations from Dr. Combs, Request for Reconsideration by Dr. Combs, Rebuttal to Dr. Strube's peer review by Dr. Combs, Rebuttal to Dr. Combs by Dr Stube, Designated Doctor report by Dr. Hood, TWCC 73 by Dr. Niemiowski, Letter from ____ to SRS adjuster, Phaon Clewis, Concentra Office Notes, MRI Report of Lumbar area by Radiology Associates, EMG/NCV Report from Dr. Becker, Reports from Dr. Henry of Texas Back Institute, Medical Review from Dr. Strube, Reports from Austin & Associates, Concentra treatment notes, Impairment by Dr Niemiowski, Impairment Rating by Dr. Combs, TWCC 1 and Police Report.

DISPUTED SERVICES

The services in dispute are: 97010 Hot/Cold Pack, 97110 Therapeutic Exercises, 97012 Mechanical Traction, 97140 Manual Therapy, 99213 Office Visits, 99214 Office Visits, 97112 Neuromuscular Re-education and L0515 LSO from 11/19/03 through 3/8/04.

DECISION

The reviewer agrees with the previous adverse decision regarding 97010 for all dates under review.

The reviewer disagrees with the previous adverse decision regarding all other services (excluding 97010) for dates of service beginning and including 11-19-2003 through and including 1-26-2004.

The reviewer disagrees with the previous adverse decision regarding 99213 on date of service 3-8-2004.

The reviewer agrees with the previous adverse decision regarding all other services (excluding 99213) on date of service 3-8-2004

BASIS FOR THE DECISION

The basis for the determination is based upon the Medical Disability Advisor and Medicare Policies. Specifically it should be noted that hot and cold packs are treatment measures that could easily be administered in a home setting and there is no need for clinical supervision of these services. In addition, passive modalities beyond the acute phase are clinically unnecessary without supporting documentation as to their specific need. Therapeutic exercises and traction are considered an appropriate treatment measure for individuals with low back pain according to the MDA. According to the CPT Code Book, neuromuscular reeducation is for posture and and/or proprioception for sitting and/or standing. Due to the fact that the injured employee has documented difficulty with sitting and postural activities, neuromuscular activity would also be appropriate for this injured employee. Due to the fact that Dr. Combs states on 1-28-2004 that ____ is at MMI in regards to the therapy Dr. Combs is delivering, no further treatment would be necessary without specific documentation as to the need for specific measures or treatment and the documentation does not reflect the need for therapy/treatment on 3-8-2004. The office visit on 3-8-04 would be appropriate to follow the injured employee's care since the injured employee is

continuing to pursue care and evasive treatment options with Dr. Henry. It should be noted that the re-evaluations performed on the patient at periodic intervals at 11-11-2003 and 12-12-03 do show improvement in the injured employee's condition, therefore meeting the standard of TLC 408.021 in that the patient does show improvement with treatment. The MDA identifies that most patients recover from a disc injury within 6 months and this treatment falls within the 6 month time period for a disc injury.

Specialty IRO has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. Specialty IRO has made no determinations regarding benefits available under the injured employee's policy. Specialty IRO believes it has made a reasonable attempt to obtain all medical records for this review and afforded the requestor, respondent and treating doctor an opportunity to provide additional information in a convenient and timely manner.

As an officer of Specialty IRO, Inc, dba Specialty IRO, I certify that there is no known conflict between the reviewer, Specialty IRO and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

Sincerely,

Wendy Perelli, CEO

CC: Specialty IRO Medical Director